

§ 1003.20

(i) *Stay of custody order pending appeal by the government*—(1) *General discretionary stay authority.* The Board of Immigration Appeals (Board) has the authority to stay the order of an immigration judge redetermining the conditions of custody of an alien when the Department of Homeland Security appeals the custody decision or on its own motion. DHS is entitled to seek a discretionary stay (whether or not on an emergency basis) from the Board in connection with such an appeal at any time.

(2) *Automatic stay in certain cases.* In any case in which DHS has determined that an alien should not be released or has set a bond of \$10,000 or more, any order of the immigration judge authorizing release (on bond or otherwise) shall be stayed upon DHS's filing of a notice of intent to appeal the custody redetermination (Form EOIR-43) with the immigration court within one business day of the order, and, except as otherwise provided in 8 CFR 1003.6(c), shall remain in abeyance pending decision of the appeal by the Board. The decision whether or not to file Form EOIR-43 is subject to the discretion of the Secretary.

[57 FR 11571, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995; 62 FR 10332, Mar. 6, 1997; 63 FR 27448, May 19, 1998; 66 FR 54911, Oct. 31, 2001; 70 FR 4753, Jan. 31, 2005; 71 FR 57884, Oct. 2, 2006]

§ 1003.20 Change of venue.

(a) Venue shall lie at the Immigration Court where jurisdiction vests pursuant to §1003.14.

(b) The Immigration Judge, for good cause, may change venue only upon motion by one of the parties, after the charging document has been filed with the Immigration Court. The Immigration Judge may grant a change of venue only after the other party has been given notice and an opportunity to respond to the motion to change venue.

(c) No change of venue shall be granted without identification of a fixed street address, including city, state and ZIP code, where the respondent/ap-

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plicant may be reached for further hearing notification.

[57 FR 11572, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995; 62 FR 10332, Mar. 6, 1997]

§ 1003.21 Pre-hearing conferences and statement.

(a) Pre-hearing conferences may be scheduled at the discretion of the Immigration Judge. The conference may be held to narrow issues, to obtain stipulations between the parties, to exchange information voluntarily, and otherwise to simplify and organize the proceeding.

(b) The Immigration Judge may order any party to file a pre-hearing statement of position that may include, but is not limited to: A statement of facts to which both parties have stipulated, together with a statement that the parties have communicated in good faith to stipulate to the fullest extent possible; a list of proposed witnesses and what they will establish; a list of exhibits, copies of exhibits to be introduced, and a statement of the reason for their introduction; the estimated time required to present the case; and, a statement of unresolved issues involved in the proceedings.

(c) If submission of a pre-hearing statement is ordered under paragraph (b) of this section, an Immigration Judge also may require both parties, in writing prior to the hearing, to make any evidentiary objections regarding matters contained in the pre-hearing statement. If objections in writing are required but not received by the date for receipt set by the Immigration Judge, admission of all evidence described in the pre-hearing statement shall be deemed unopposed.

[57 FR 11572, Apr. 6, 1992]

§ 1003.22 Interpreters.

Any person acting as an interpreter in a hearing shall swear or affirm to interpret and translate accurately, unless the interpreter is an employee of the United States Government, in which event no such oath or affirmation shall be required.

[52 FR 2936, Jan. 29, 1987. Redesignated at 57 FR 11571, Apr. 6, 1992]